

Fw: American Tunnel (this is is the communication just for you for now)

Martin Hestmark to: Jim Martin

10/03/2011 11:28 AM

From: Martin Hestmark/R8/USEPA/US

To:

Cc: Carol Campbell/R8/USEPA/US@EPA, Kelcey Land/R8/USEPA/US@EPA, David

Ostrander/R8/USEPA/US@EPA, Richard Sisk/R8/USEPA/US@EPA, Daniel Heffernan/R8/USEPA/US@EPA

So I have spoken with Gary Baughman, left a message with Steve Gunderson, spoken with Kelcey and Aaron in ECEJ (see below). Carol spoke with Hankins on Thursday and left messages with Gary B on Friday. We were not aware that Sunnyside was coming in to speak with Peter Butler or whether the state is planning on attending. We are meeting with Gary B's staff on Wednesday. Kinross (Sunnyside's parent) is coming in to meet with us on Thursday.

We have drafted 104(e) letters to issue to Kinross (and I believe two other parties) as per below and as we have discussed with you previously. We have coordinated with/informed BLM that we intended to do so. They were understanding and raised no concerns. We had informed Baughman's Superfund staff also. Although the state water quality staff has a standing invitation to stakeholder meetings they have not attended recently. We did not think to coordinate with Gunderson on this, but previously, in related conversations on the Animas/Cement Creek, the implicit if not overt reaction we received from Gunderson himself was that he was understanding of our interest and frankly tired of the lack of progress in this watershed. We plan to communicate with the local stakeholders and gov't officials as the letters are going out the door.

We can delay the issuance of these letters, however the issuance of these letters may also serve to prompt legitimate responsiveness on the part of the company(s) (or not) and as such we can further contemplate how to proceed in concert with all of the other players and community after seeing what is within the information request response and seeing what the company has to offer. I have offered this perspective to Gary Baughman and plan to offer the same perspective upon conversing with Steve Gunderson. Would you like to talk further about this?

----- Forwarded by Martin Hestmark/R8/USEPA/US on 10/03/2011 10:56 AM -----

From: Kelcey Land/R8/USEPA/US

To: Martin Hestmark/R8/USEPA/US@EPA

Cc: Aaron Urdiales/R8/USEPA/US@EPA

Date: 10/03/2011 10:43 AM

Subject: Re: American Tunnel (this is is the communication just for you for now)

THIS IS WHAT I WAS GOING TO SEND BEFORE I SAW THE STATE EMAIL...IF THE STATE WANTS US TO WAIT, WE CAN WAIT UNTIL FRIDAY - LET ME KNOW IF YOU WANT TO ME BE ON THE PHONE WHEN YOU CALL GARY - K

We are planning to send out the information request letter to Kinross on Thursday, the day that Kinross is coming in to meet with us. Kinross knows the information request is coming (Richard has already discuss this with them) and that we are planning to send them right after that meeting, but not discuss the letter in that meeting. Richard and Mike have already discussed this timing with the team and have provided significant comments on the communication strategy.

Please keep in mind that we are simply asking for information here. This is NOT a general notice letter nor a demand letter (WE TOOK THOSE OUT OF THIS LETTER), but only a request for

information, both liability and technical, from parties that might have such information that will help the team with evaluating what response actions might be needed for this site. Sending information request letters is a normal part of our process and just one tool we have for gathering information - we use this tool at just about every site where we need to gather information (a party does NOT have to be a PRP to receive an information request letter). Also, we work very closely and cooperatively with the technical folks to ensure that the questions we ask get them information they need as well. In this particular situation, we were asked to send these letters out expeditiously to begin gathering more information, especially technical information, that could help guide our next steps.

I appreciate very much the collective sensitivity about community reaction here - at this point, we are only collecting information, nothing more, and this is the message we need to keep in mind. We do not generally do communication strategies for sending routine 104(e) letters - however, for this situation, the team is working on a communication strategy because of perceived community concerns regarding this information collection.

I'm happy to discuss further if anyone wants - thanks - Kelcey

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